

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

DALE AND KIM NEIDENBACH,	)	
	)	Cause No. _____
Plaintiffs,	)	
	)	
v.	)	Circuit Court of Franklin County
	)	Case No. 13AB-CC00088
AMICA MUTUAL INSURANCE	)	
COMPANY,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Amica Mutual Insurance Company (“Amica”) hereby removes this action to the United States District Court for the Eastern District of Missouri, Eastern Division. In support of its removal, Amica states the following:

1. On April 10, 2013, Dale and Kim Neidenbach (“the Neidenbachs”) filed a Petition against Amica in the Circuit Court of Franklin County, Missouri, Case No. 13AB-CC00088, alleging breach of contract and vexatious refusal to pay.
2. A copy of the unserved Petition, filed and assigned Case No. 13AB-CC00088, is attached hereto as Exhibit A.
3. The Neidenbachs are domiciled in Franklin County, Missouri and are citizens of the State of Missouri.
4. Amica is, and at all times material hereto was, a corporation organized and existing under the laws of the State of Rhode Island with its principal place of business in Lincoln, Rhode Island; therefore, Amica is not a citizen of Missouri.

5. The Neidenbachs seek to recover \$612,500 in alleged losses to their dwelling and personal property items, pre- and post-judgment interest, attorney's fees, as well as an unknown amount in Additional Living Expenses, plus other allowable damages under Missouri's vexatious refusal to pay statute; therefore, the \$75,000 amount in controversy requirement, set forth in 28 U.S.C. § 1332(a), is satisfied. (*See* Exhibit A, Petition).

6. As complete diversity of citizenship exists between the Neidenbachs and Amica and the amount in controversy requirement of 28 U.S.C. § 1332(a) is satisfied, removal to this Court is proper pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

7. Further, removal to this Court is proper pursuant to 28 U.S.C. § 1446(a), in that the action was filed in the Circuit Court of Franklin County, Missouri, which is within this district and division.

8. Amica was never served with a Summons and Petition, through the Missouri Department of Insurance or otherwise. As Amica was never served, this Notice of Removal is timely filed, based on the requirement that filing occur within thirty (30) days of service, pursuant to 28 U.S.C. § 1446(b).

9. Promptly after filing this Notice of Removal, Amica will give written notice thereof to the Neidenbachs and the Circuit Clerk for Franklin County, Missouri. A copy of said notices are attached hereto and incorporated herein as Exhibit B and C.

Respectfully submitted,

/s/ Robert W. Cockerham

Robert W. Cockerham, #31984MO

**COCKERHAM & ASSOCIATES, LLC.**

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was filed via the District Court's electronic filing system and was mailed, first class, postage prepaid, this 16<sup>th</sup> day of August, 2013, to: Mr. David Knieriem, Law Offices of David C. Knieriem, LLC, 7711 Bonhomme, Suite 850, Clayton, MO 63105, Attorney for Plaintiffs.

/s/ Robert W. Cockerham